

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

CASE NO. 17-CV-823

CONSUELA SMITH-WILLIAMS, FRED
RIVERS, RICHARD MURPHY, ROBERT
RISTOW, ROGER SUHR, and
SALVADOR FUENTES, individually,
and on behalf of all similarly
situated,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

_____ /

DEPOSITION OF FRANK MARCANTONIO

witness in the above-entitled action, taken
under the Federal Rules of Civil Procedure,
before Mary P. Hader, Registered Professional
Reporter and Notary Public in and for the State
of Wisconsin, at the Tomah VA Medical Center, 500 East
Veterans Street, Building 408, Conference Room 3815A,
Tomah, Wisconsin, on September 25, 2018, commencing at
10:30 a.m. and suspended at 10:34 a.m.

REPORTED BY:
Mary P. Hader, CSR, RPR



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Marcantonio, Frank 09-25-2018

<p>2</p> <p>1 APPEARANCES OF COUNSEL 2 ON BEHALF OF THE PLAINTIFFS: 3 THE DOWNS LAW GROUP - MIAMI-DADE OFFICE 4 ATTORNEY WILLIAM T. REIDER, JR. 5 3250 Mary Street, Suite 307 6 Coconut Grove, FL 33133 7 8 ON BEHALF OF THE DEFENDANT: 9 10 U.S. DEPARTMENT OF JUSTICE 11 UNITED STATES ATTORNEY'S OFFICE 12 ATTORNEY DAVID D. CONWAY 13 ASSISTANT UNITED STATES ATTORNEY 14 Western District of Wisconsin 15 222 West Washington Avenue, Suite 700 16 Madison, WI 53703 17 18 ON BEHALF OF THE WITNESS: 19 20 BROWNELL LANDRIGAN, P.C. 21 ATTORNEY CHRISTOPHER LANDRIGAN 22 1818 N Street, N.W., Suite 520 23 Washington, DC 20036 24 25</p>	<p>4</p> <p>1 INDEX OF EXHIBITS 2 EXHIBITS DESCRIPTION PAGE 3 (NO EXHIBITS MARKED) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>3</p> <p>1 INDEX OF EXAMINATION 2 WITNESS NAME: Frank D. Marcantonio 3 PAGE 4 DIRECT EXAMINATION 5 BY Mr. Reider 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>5</p> <p>1 DEPOSITION OF FRANK MARCANTONIO 2 SEPTEMBER 25, 2018 3 THEREUPON: 4 FRANCIS D. MARCANTONIO, 5 having been called as a witness herein, being first duly 6 sworn, was examined and testified as follows: 7 DIRECT EXAMINATION 8 BY MR. REIDER: 9 Q Please state your full name for the record. 10 A Frank D. Marcantonio. 11 Q Thank you. And your address? 12 A [REDACTED] 13 Q Thank you. And your date of birth? 14 A [REDACTED] 15 Q Are you represented by counsel here today? 16 A Yes. 17 Q Okay. Are you currently employed? 18 A On the advice of counsel -- 19 MR. LANDRIGAN: I'll object. I'll advise my 20 client to assert his Fifth Amendment rights and 21 instruct him not to answer the question. 22 THE WITNESS: On the advice -- 23 MR. REIDER: Just to be clear here, you're 24 instructing him not to answer the question as to 25 whether or not he's currently employed?</p>



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<p>6</p> <p>1 MR. LANDRIGAN: Yes.</p> <p>2 BY MR. REIDER:</p> <p>3 Q Okay. Dr. Marcantonio, were you ever employed</p> <p>4 at the Tomah VA Medical Center?</p> <p>5 THE WITNESS: On the advice --</p> <p>6 MR. LANDRIGAN: I object and advise my client</p> <p>7 to assert his Fifth Amendment rights and instruct</p> <p>8 him not to answer the question.</p> <p>9 THE WITNESS: On the advice --</p> <p>10 MR. REIDER: Are you objecting or are you</p> <p>11 asserting a privilege?</p> <p>12 MR. LANDRIGAN: Both.</p> <p>13 MR. REIDER: Okay. Well, what's the basis of</p> <p>14 the objection?</p> <p>15 MR. LANDRIGAN: The objection is still</p> <p>16 related. It's asserting his Fifth Amendment rights</p> <p>17 and instructing him not to answer the question.</p> <p>18 BY MR. REIDER:</p> <p>19 Q Okay. Is Dr. Marcantonio's intention -- I'm</p> <p>20 asking you, Dr. Marcantonio -- is your intention to</p> <p>21 answer any questions here today?</p> <p>22 A On the advice of counsel --</p> <p>23 MR. LANDRIGAN: I would advise him that any --</p> <p>24 as we talked about, as his counsel, apart from</p> <p>25 identifying information about his name, address,</p>	<p>8</p> <p>1 not to answer the question.</p> <p>2 BY MR. REIDER:</p> <p>3 Q Have you been placed under arrest by State or</p> <p>4 Federal authorities?</p> <p>5 MR. LANDRIGAN: I object; advise my client to</p> <p>6 assert his Fifth Amendment rights and instruct him</p> <p>7 not to answer the question.</p> <p>8 BY MR. REIDER:</p> <p>9 Q Have criminal charges been filed against you?</p> <p>10 MR. LANDRIGAN: I object; advise my client to</p> <p>11 assert his Fifth Amendment rights and instruct him</p> <p>12 not to answer the question.</p> <p>13 BY MR. REIDER:</p> <p>14 Q Have you been contacted by criminal</p> <p>15 investigators?</p> <p>16 MR. LANDRIGAN: I object; advise my client to</p> <p>17 assert his Fifth Amendment rights and instruct him</p> <p>18 not to answer the question.</p> <p>19 BY MR. REIDER:</p> <p>20 Q Are you willing to answer any questions, any</p> <p>21 substantive questions about your supervision of</p> <p>22 Dr. Schiller?</p> <p>23 MR. LANDRIGAN: I object; advise my client to</p> <p>24 assert his Fifth Amendment rights and instruct him</p> <p>25 not to answer the question.</p>
<p>7</p> <p>1 date of birth, any substantive questions I would</p> <p>2 advise my client to assert his Fifth Amendment</p> <p>3 rights and instruct him not to answer the question.</p> <p>4 BY MR. REIDER:</p> <p>5 Q Dr. Marcantonio, are you currently the subject</p> <p>6 of a criminal investigation?</p> <p>7 MR. LANDRIGAN: I object; advise my client to</p> <p>8 assert his Fifth Amendment rights and instruct him</p> <p>9 not to answer the question.</p> <p>10 BY MR. REIDER:</p> <p>11 Q Have you previously been the subject of a</p> <p>12 criminal investigation?</p> <p>13 MR. LANDRIGAN: I object; advise my client to</p> <p>14 assert his Fifth Amendment rights and instruct him</p> <p>15 not to answer the question.</p> <p>16 BY MR. REIDER:</p> <p>17 Q Have you been called before a grand jury to</p> <p>18 testify?</p> <p>19 MR. LANDRIGAN: I object; advise my client to</p> <p>20 assert his Fifth Amendment rights and instruct him</p> <p>21 not to answer the question.</p> <p>22 BY MR. REIDER:</p> <p>23 Q Have you been indicted by a grand jury?</p> <p>24 MR. LANDRIGAN: I object; advise my client to</p> <p>25 assert his Fifth Amendment rights and instruct him</p>	<p>9</p> <p>1 BY MR. REIDER:</p> <p>2 Q Are you willing to answer any substantive</p> <p>3 questions about the hiring of Dr. Schiller?</p> <p>4 MR. LANDRIGAN: I object; advise my client to</p> <p>5 assert his Fifth Amendment rights and instruct him</p> <p>6 not to answer the question.</p> <p>7 BY MR. REIDER:</p> <p>8 Q Are you willing to answer any substantive</p> <p>9 questions about the intentions of Dr. Schiller?</p> <p>10 MR. LANDRIGAN: I object; advise my client to</p> <p>11 assert his Fifth Amendment rights and instruct him</p> <p>12 not to answer the question.</p> <p>13 MR. REIDER: Okay. At this point, I'm going</p> <p>14 to go ahead and suspend the deposition and I'm</p> <p>15 going to file a motion to compel and -- okay, I'm</p> <p>16 going to suspend the deposition at this point; I'm</p> <p>17 not terminating it. I'm just going to suspend it</p> <p>18 and we're going to go talk to the judge and see</p> <p>19 what he wants us to do.</p> <p>20 MR. LANDRIGAN: Okay. Understood.</p> <p>21 Thanks.</p> <p>22 MR. REIDER: We're off the record.</p> <p>23 (Whereupon, the deposition of Francis D.</p> <p>24 Marcantonio was suspended.)</p> <p>25</p>



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1 CERTIFICATE OF REPORTER
2 UNITED STATES DISTRICT COURT
3 WESTERN DISTRICT OF WISCONSIN
4

5 I, Mary P. Hader, CSR and Registered
Professional Reporter, certify:

6 That the foregoing proceedings were taken before me at
the time and place therein set forth, at which time the
7 witness was put under oath by me;
That the testimony of the witness, questions propounded,
8 and all objections and statements made at the time of
the examination were recorded stenographically by me and
9 thereafter transcribed; That a review of the transcript
by the deponent was waived; That the foregoing is a true
10 and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee
11 of any attorney of the parties, not financially
interested in the action.

12 I declare under penalty of perjury under the laws
13 of Wisconsin that the foregoing is true and correct.

14 Dated this 10th day of OCTOBER, 2018.

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Mary P. Hader, CSR, RPR

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